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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT - 5 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of Section 9 of the)
Communications Act)
)
Assessment and Collection of)
Regulatory Fees for the 1994)
Fiscal Year)

MD Docket No. 94-19

AIRTOUCH COMMUNICATIONS INFORMAL COMMENTS

AirTouch Communications hereby submits informal comments in support of Petitions for Reconsideration of the Report and Order released by the Commission on June 8, 1994, in the above-captioned proceeding. Specifically, AirTouch urges the Commission to permit CMRS carriers to avoid disclosure of market-specific subscriber count information in calculating their annual fees pursuant to Section 9 of the Communications Act of 1934.

In the Order, the Commission adopted a regulatory fee schedule for fiscal year 1994 which required cellular carriers to disclose the actual numbers of their subscribers on a system-by-system basis for purposes of calculating regulatory fees. Subscriber information on a system-by-system basis is confidential and proprietary business data which could place a cellular carrier at a significant competitive disadvantage vis-a-vis its competitors if disclosed. Such information could be used as a marketing tool by competitors to undermine a carrier's strategy and exploit a carrier's weaknesses. Competition between carriers would thereby be reduced.

To protect licensees from the release of this competitively sensitive information, AirTouch supports the alternative proposed by NYNEX that licensees file their subscriber counts

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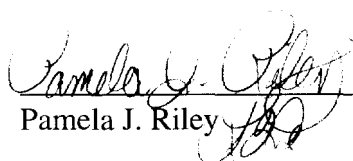
on a corporate-wide basis.¹ By rolling up subscriber counts to the holding company level, a corporation could make a single fee payment for all of its markets, creating efficiencies for both industry and Commission staff by reducing the number of filings. Such a requirement would reflect the multiple ownership of licenses which exist for many cellular companies, including AirTouch Cellular. To assess the accuracy of the calculations used to determine the payments, random, periodic audits of a carriers' records could be conducted. A corporate-wide payment process would achieve the best balance between eliminating unnecessary and unproductive regulatory burdens on CMRS licensees while providing the Commission with sufficient information to meet its statutory requirements.

Alternatively, AirTouch supports the proposals of CTIA and NYNEX to amend section 0.457 of its rules to provide for confidential treatment of regulatory fee amounts and the confidential subscriber data on which the regulatory fees are calculated. The Commission's option of requesting confidential treatment of the data pursuant to Section 0.459 of the Commissions Rules each time regulatory fee payments are made is unnecessarily burdensome. Applying this option will defeat the Commission's objective of adopting rules designed to ensure that fees are collected in a manner that is easy to comply with and administer. In addition, it is uncertain that the information will remain confidential. Affirmative protection is needed to provide carriers confidence that competitively valuable information regarding market share and growth rates will not be available through the regulatory process.

¹ NYNEX Petition for Reconsideration at 2.

In conclusion, AirTouch urges the Commission to reconsider its requirements related to the assessment and collection of regulatory fees for the 1994 fiscal year. The provision of aggregate market data will afford greater protection to licensee information upon which those fees are based. If market-by-market information is required, subscriber numbers should be protected on a blanket basis through an amendment to the Commission's rules.

Respectfully submitted,


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Certificate of Service

I, Tina L. Murray, herby certify that on this 5th day of October, 1994, copies of the foregoing AirTouch Communications Informal Comments were sent by U.S. mail, postage prepaid, to each of the parties listed on the following pages:


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